

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THE ECLIPSE GROUP LLP, a California
limited-liability partnership,

Plaintiff,

v.

TARGET CORPORATION, et al.,

Defendants.

Case No.: 15cv1411

**ORDER (1) GRANTING IN PART
DEFENDANTS' *EX PARTE*
APPLICATION TO CONTINUE
MOTION FOR SUMMARY
ADJUDICATION; (2) CONTINUING
OPPOSITION DEADLINE FOR
MOTION FOR SUMMARY
ADJUDICATION; AND (3) SETTING
OPPOSITION DEADLINE FOR *EX
PARTE* APPLICATION TO
CONTINUE MOTION FOR
SUMMARY ADJUDICATION**

(ECF Nos. 79, 86)

Presently before the Court is Defendants' *Ex Parte* Application to Continue Motion for Partial Summary Judgment of Intervenor Pursuant to Rule 56(d) ("Cont. Mot."). (ECF No. 86.) Intervenor filed a Motion for Summary Adjudication several weeks ago. (ECF No. 79.) The Court set a briefing schedule for the Motion for Summary Adjudication that, in relevant part, set March 30, 2017 as the deadline for Defendants' Opposition. (ECF No. 80.) Defendants now request the Court to either continue the hearing date and corresponding briefing deadlines or simply deny the Motion, because "Defendants have

1 not had the opportunity to take [Intervenor's] deposition, or the deposition of the person
 2 most knowledgeable of [the named Plaintiff] sufficiently in advance of the date
 3 [Defendants'] Opposition to the Motion is due" (Cont. Mot. 7.)

4 In support, Defendants allege that Intervenor only recently notified Defendants of
 5 his unavailability for a scheduled deposition and that Intervenor "has refused to offer any
 6 alternative dates for his deposition, or even meaningfully meet and confer on the issue."
 7 (*Id.* at 2.) Intervenor also has due his first set of responses to Defendants' various discovery
 8 requests only a day prior to when Defendants' Opposition to the Motion for Summary
 9 Adjudication is currently due. (*Id.* at 3.) Additionally, the named Plaintiff has allegedly
 10 "raised baseless objections to Defendants' first set of requests for production of documents,
 11 special interrogatories and requests for admissions, again denying Defendants['] access to
 12 material information directly related to the issues raised in the Motion." (*Id.* at 2.)

13 Although, given Defendants' presented evidence, the Court is inclined to dismiss
 14 without prejudice the pending Motion for Summary Adjudication, Defendants note that
 15 Intervenor contests several of the allegations Defendants make in the Continuance Motion.
 16 (*See id.* at 6.) And Intervenor should have a chance to respond to Defendants' allegations.

17 Accordingly, the Court **CONTINUES** the hearing on the pending Motion for
 18 Summary Adjudication until Thursday, June 15, 2017 at 1:30 p.m. Defendants **SHALL**
 19 file their Opposition on or before May 4, 2017. Intervenor **SHALL** file his Reply, if any,
 20 on or before May 18, 2017.

21 Additionally, Intervenor **SHALL** file a response regarding Defendants' Continuance
 22 Motion on or before April 4, 2017. Intervenor should address the reasons for or against
 23 denying the pending Motion for Summary Adjudication until such time as Defendants have

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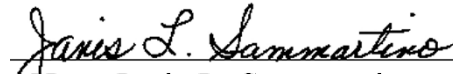
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1 completed the discovery they contend is needed to adequately address the Motion. Any
2 subsequent denial of the Motion for Summary Adjudication on these grounds would be
3 without prejudice.

4 **IT IS SO ORDERED.**

5 Dated: March 28, 2017


Hon. Janis L. Sammartino
United States District Judge